



[Search Results](#) > H.CON.RES.274 (Introduced in House)

[New Search](#)

[Help](#) | [Contact Us](#)

This Bill: [Bill Summary & Status](#)

Printer Friendly: [HTML](#) | [PDF](#)

## H.CON.RES.274

Whereas section 1385 of title 18 (commonly known as the 'Posse Comitatus Act') prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under... (Introduced in House)

HCON 274 IH

109th CONGRESS

1st Session

**H. CON. RES. 274**

Reaffirming the continued importance and applicability of the Posse Comitatus Act.

**IN THE HOUSE OF REPRESENTATIVES**

**October 25, 2005**

Ms. MCKINNEY submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

### CONCURRENT RESOLUTION

Reaffirming the continued importance and applicability of the Posse Comitatus Act.

Whereas section 1385 of title 18 (commonly known as the 'Posse Comitatus Act') prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or Act of Congress;

Whereas enacted in 1878, the Posse Comitatus Act was expressly intended to prevent United States Marshals, on their own initiative, from calling on the Army for assistance in enforcing Federal law;

Whereas the Posse Comitatus Act has served the Nation well in limiting the use of the Armed Forces to enforce the law;

Whereas nevertheless, by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President's obligations under the Constitution to respond promptly in time of

war, insurrection, or other serious emergency; and

Whereas existing laws, including chapter 15 of title 10 (commonly known as the 'Insurrection Act'), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress reaffirms the continued importance of section 1385 of title 18, and it is the sense of Congress that nothing in this chapter should be construed to alter the applicability of such section to any use of the Armed Forces as a posse comitatus to execute the laws.

This Bill: [Bill Summary & Status](#)

Printer Friendly: [HTML](#) | [PDF](#)

[Search Results](#) > H.CON.RES.274 (Introduced in House)

[New Search](#)

[Help](#) | [Contact Us](#)

**AMENDMENT TO H.R. 5122**  
**OFFERED BY MS. MCKINNEY OF GEORGIA**

at the appropriate place in title V of the bill, insert  
the following new section:

1 **SEC. 5\_\_\_\_. AMENDING OFFENSE OF SODOMY UNDER THE**  
2 **UNIFORM CODE OF MILITARY JUSTICE.**

3 (a) **FORCIBLE SODOMY AND SODOMY OF A CHILD.—**

4 (1) **IN GENERAL.**—Section 925 of title 10,  
5 United States Code (article 125 of the Uniform  
6 Code of Military Justice), is amended to read as fol-  
7 lows:

8 **“§ 925. Art. 125. Forcible sodomy and sodomy of a**  
9 **child**

10 “(a) Any person subject to this chapter who engages  
11 in unnatural carnal copulation by force with another per-  
12 son is guilty of forcible sodomy. Any person found guilty  
13 of forcible sodomy shall be punished as a court-martial  
14 may direct.

15 “(b) Any person subject to this chapter who, under  
16 circumstances not amounting to forcible sodomy, commits  
17 an act of unnatural carnal copulation with a person—

18 “(1) who is not his or her spouse; and

1           “(2) who has not attained the age of sixteen  
2       years; is guilty of sodomy and shall be punished as  
3       a court-martial may direct.

4       “(c) Penetration, however slight, is sufficient to com-  
5       plete either of these offenses.”.

6           (2) CLERICAL AMENDMENT.—The table of sec-  
7       tions at the beginning of subchapter X of chapter 47  
8       of such title is amended by striking the item relating  
9       to section 925 and inserting the following new item:

“925. Art. 125. Forcible sodomy and sodomy of a child.”.

10       (b) EFFECTIVE DATE.—The amendments made by  
11       this section shall take effect 12 months after the date of  
12       the enactment of this Act and apply with respect to of-  
13       fenses committed after such effective date.

AMENDMENT TO H.R. 5122

OFFERED BY MS. MCKINNEY

At the appropriate place in the bill, insert the following new title:

1 TITLE XIV—SEXUAL  
2 HARRASSMENT IN THE MILI-  
3 TARY

Subtitle A—Protection of Persons Reporting Sexual Assault or Domestic Violence

Sec. 1401. Victim service organization privilege and health care professional privilege in cases arising under Uniform Code of Military Justice.

Subtitle B—Victim's Rights and Restitution

Sec. 1411. Military law enforcement and victims' rights.

Sec. 1412. Availability of incident reports.

Sec. 1413. Victim advocates and victims' rights.

Sec. 1414. Restitution.

Sec. 1415. Records of military justice actions.

4 Subtitle A—Protection of Persons  
5 Reporting Sexual Assault or Do-  
6 mestic Violence

7 SEC. 1401. VICTIM SERVICE ORGANIZATION PRIVILEGE  
8 AND HEALTH CARE PROFESSIONAL PRIVI-  
9 LEGE IN CASES ARISING UNDER UNIFORM  
10 CODE OF MILITARY JUSTICE.

11 (a) PRIVILEGES ESTABLISHED.—

1           (1) IN GENERAL.—Subchapter XI of chapter 47  
2           of title 10, United States Code (the Uniform Code  
3           of Military Justice), is amended by adding at the  
4           end the following new section:

5   “§941. Art. 141. Privilege for communication with  
6           victim service organization or health  
7           care professional

8           “(a) GENERAL RULE OF PRIVILEGE.—A client has  
9           a privilege to refuse to disclose, and to prevent any other  
10          person from disclosing, a confidential communication  
11          made between the client and a victim service organization  
12          or any representative of the organization, or between the  
13          client and a health care professional or any representative  
14          of the professional, in a case arising under this chapter,  
15          if such communication was made for the purpose of secur-  
16          ing advice, counseling, treatment, or assistance concerning  
17          the client’s mental, physical, or emotional condition caused  
18          by domestic violence, family violence, dating violence,  
19          stalking, or sexual assault.

20          “(b) DEFINITIONS.—In this section:

21                 “(1) The term ‘client’ means a person who  
22                 consults with or is examined or interviewed by a vic-  
23                 tim service organization or any representative of the  
24                 organization, or by a health care professional or any  
25                 representative of the professional.

1           “(2) The term ‘victim service organization’  
2       means an organization (whether public or private)  
3       that provides advice, counseling, or assistance to vic-  
4       tims of domestic violence, family violence, dating vio-  
5       lence, stalking, or sexual assault, or to the families  
6       of such victims.

7           “(3) The term ‘representative’, with respect to  
8       an organization or professional, means a person di-  
9       rected by or assigned to assist that organization or  
10      professional, respectively, in providing advice, coun-  
11      seling, treatment, or assistance.

12          “(4) The term ‘confidential communication’  
13      means a communication not intended to be disclosed  
14      to third persons other than—

15           “(A) those to whom disclosure is in fur-  
16          therance of providing advice, counseling, treat-  
17          ment, or assistance to the client; and

18           “(B) those reasonably necessary for dis-  
19          closing under subparagraph (A).

20          “(c) EMERGENCY SHELTER PROTECTION.—A client  
21      or representative of a client may not be compelled to pro-  
22      vide testimony in a civil, criminal, legislative, disciplinary,  
23      or administrative proceeding that would identify—

24           “(1) the name, address, location, or telephone  
25      number of a safe house, abuse shelter, or other facil-

1       ity that provided temporary emergency shelter to the  
2       victim of the offense or transaction that is the sub-  
3       ject of the proceeding; or

4               “(2) the name, address, or telephone number of  
5       a victim representative.

6       “(d) WHO MAY CLAIM THE PRIVILEGE.—The privi-  
7       lege under subsection (a) or (c) may be claimed by the  
8       client or the guardian or conservator of the client. A per-  
9       son who may claim the privilege may authorize trial coun-  
10      sel or defense counsel to claim the privilege on his or her  
11      behalf. The victim service organization, health care profes-  
12      sional, or representative who received the communication  
13      may claim the privilege on behalf of the client. The author-  
14      ity of such an organization, professional, representative,  
15      guardian, or conservator to so assert the privilege is pre-  
16      sumed in the absence of evidence to the contrary.

17      “(e) EXCEPTIONS.—There is no privilege under this  
18      section—

19               “(1) when the client is dead, except for the  
20      privilege under subsection (c);

21               “(2) to the extent the communication reports  
22      child abuse;

23               “(3) when a victim service organization, health  
24      care professional, or representative believes that a  
25      mental or emotional condition of the client makes



1 the client a danger to any person, including the cli-  
2 ent; or

3 “(4) if the communication clearly contemplated  
4 the future commission of a fraud or crime or if the  
5 services of the victim service organization or health  
6 care professional are sought or obtained to enable or  
7 aid anyone to commit or plan to commit what the  
8 client knew or reasonably should have known to be  
9 a crime or fraud.”.

10 (2) CLERICAL AMENDMENT.—The table of sec-  
11 tions at the beginning of such subchapter is amend-  
12 ed by adding at the end the following new item:

“941. 141. Privilege for communication with victim service organization or  
health care professional.”.

13 (b) APPLICABILITY.—Section 941 of title 10, United  
14 States Code (article 141 of the Uniform Code of Military  
15 Justice), as added by subsection (a), applies to commu-  
16 nications made after the date of the enactment of this Act.

17 **Subtitle B—Victim’s Rights and**  
18 **Restitution**

19 SEC. 1411. MILITARY LAW ENFORCEMENT AND VICTIMS’  
20 RIGHTS.

21 (a) VICTIMS RIGHTS.—After an allegation of a do-  
22 mestic violence, sexual assault, family violence, or stalking  
23 offense that is reported to, or investigated by military law

1 enforcement agency, the victim (or alleged victim) shall  
2 have the following rights:

3 (1) Victims' rights set out under section 502(b)  
4 of the Victims' Rights and Restitution Act of 1990  
5 (42 U.S.C. 10606(b)).

6 (2) The right to be informed of the availability  
7 of crisis intervention services and resources and  
8 medical services and, when applicable, that medical  
9 services arising out of the need to secure evidence  
10 may be reimbursed.

11 (3) The right to be informed of legal procedures  
12 and resources available for the protection of the vic-  
13 tim, including military no contact orders and protec-  
14 tion orders, the provisions of section 1561a of title  
15 10, United States Code, and the full faith and credit  
16 provisions of the Violence Against Women Act as de-  
17 fined by section 2265 of title 18, United States  
18 Code.

19 (4) The right to be informed of names and tele-  
20 phone numbers of public and private assistance pro-  
21 grams, including victim compensation programs,  
22 transitional compensation programs, and programs  
23 that provide counseling, treatment, shelter, and sup-  
24 port services.

1           (5) The right to be informed of the military law  
2       enforcement agency report number for the case, if  
3       available, other identifying information, and the fol-  
4       lowing statement: “If within 30 days you are not no-  
5       tified of an arrest in your case, you may call (the  
6       military law enforcement agency’s telephone num-  
7       ber) for information on the status of your case.”.

8           (6) The right to be notified by military law en-  
9       forcement authorities of the arrest of the suspect, if  
10      the suspect is arrested, regardless of whether the  
11      suspect is an adult or a juvenile.

12          (7) The right to be to informed, in a case in  
13      which the suspect is an adult and has been arrested,  
14      of the suspect’s release, of the scheduled time, place,  
15      and date for initial court appearances of the suspect,  
16      and of the victim’s right to be heard.

17      (b) NOTICE OF RIGHTS TO BE PROVIDED.—As soon  
18   after an allegation of a domestic violence, sexual assault,  
19   family violence, or stalking offense as possible without  
20   interfering with an investigation or arrest, a representa-  
21   tive of the military law enforcement agency that has re-  
22   sponsibility for investigating the offense shall provide the  
23   victim with a multicopy form that includes the following:

1           (1) A form for the victim to request or waive  
2       applicable rights to information to which the victim  
3       is entitled, on request, under this section.

4           (2) A means for the victim to designate a lawful  
5       representative selected by the victim.

6           (3) Notice to the victim of the following:

7                (A) Victims' rights under section 502(b) of  
8       the Victims' Rights and Restitution Act of 1990  
9       (42 U.S.C. 10606(b)).

10              (B) The availability of crisis intervention  
11       services and resources and medical services and,  
12       when applicable, that medical services arising  
13       out of the need to secure evidence may be reim-  
14       bursed.

15              (C) The legal procedures and resources  
16       available for the protection of the victim, in-  
17       cluding military no contact orders and protec-  
18       tion orders, the provisions of section 1561a of  
19       title 10, United States Code, and the full faith  
20       and credit provisions of the Violence Against  
21       Women Act as defined by section 2265 of title  
22       18, United States Code.

23              (D) The names and telephone numbers of  
24       public and private assistance programs, includ-  
25       ing victim compensation programs, transitional

1 compensation programs, and programs that  
2 provide counseling, treatment, shelter, and sup-  
3 port services.

4 (E) The military law enforcement agency  
5 report number for the case, if available, other  
6 identifying information, and the following state-  
7 ment: "If within 30 days you are not notified  
8 of an arrest in your case, you may call (the  
9 military law enforcement agency's telephone  
10 number) for information on the status of your  
11 case.'".

12 (F) Regardless of whether the suspect is  
13 an adult or a juvenile, a statement that the vic-  
14 tim will be notified by military law enforcement  
15 authorities of the arrest of the suspect, if the  
16 suspect is arrested.

17 (G) If the suspect is an adult and has been  
18 arrested, a statement that the victim will be in-  
19 formed of the suspect's release, of the scheduled  
20 time, place, and date for initial court appear-  
21 ances of the suspect and of the victim's right to  
22 be heard, and that to exercise those rights, the  
23 victim may contact the custodial agency regard-  
24 ing the suspect's status or contact the com-  
25 mand regarding any changes.

1 (c) EFFECT OF EMOTIONAL STATUS OF VICTIM.—

2 If at the time of contact with a military law enforcement  
3 agency representative under subsection (a), a victim is  
4 emotionally unable to request or to waive applicable rights,  
5 the military law enforcement agency representative shall  
6 so designate that on the multicopy form and any entity  
7 that is subsequently involved in the case shall presume  
8 that the victim invoked the applicable rights to which the  
9 victim is entitled and, on request, the victim may later  
10 waive those rights.

11 SEC. 1412. AVAILABILITY OF INCIDENT REPORTS.

12 (a) APPLICABILITY.—A military law enforcement  
13 agency shall provide, without charge, to a victim of domes-  
14 tic violence, sexual assault, family violence, or stalking (or  
15 to the representative of such a victim, if the victim is de-  
16 ceased) a copy of the incident report in the case, a copy  
17 of the incident report summary (referred to as a “face  
18 sheet”), or both, in accordance with subsection (b).

19 (b) TIME FOR AVAILABILITY.—

20 (1) SUMMARIES.—A copy of an incident report  
21 summary shall be made available during regular  
22 business hours to a victim or the victim’s representa-  
23 tive no later than 48 hours after being requested by  
24 the victim or the victim’s representative, unless the  
25 military law enforcement agency informs the victim

1 or representative of the reasons why the summary is  
2 not available, in which case the summary shall be  
3 made available to the victim or representative no  
4 later than five working days after the request is  
5 made.

6 (2) INCIDENT REPORTS.—A copy of the inci-  
7 dent report shall be made available during regular  
8 business hours to a victim or the victim's representa-  
9 tive no later than five working days after being re-  
10 quested by a victim or representative, unless the  
11 military law enforcement agency informs the victim  
12 or representative of the reasons why the incident re-  
13 port is not available, in which case the incident re-  
14 port shall be made available to the victim or rep-  
15 resentative no later than 10 working days after the  
16 request is made.

17 (c) IDENTIFICATION.—An incident report and a sum-  
18 mary of an incident report may be provided to any person  
19 under this section only upon presentation of identification  
20 satisfactory to the Secretary concerned.

21 (d) TIME DURATION.—This section applies to re-  
22 quests for copies of incident reports and summaries of in-  
23 cident reports made within five years from the date of  
24 completion of the incident report.

25 (e) VICTIM'S REPRESENTATIVE DEFINED.—

1           (1) For purposes of this section, the term “vic-  
2       tim’s representative” means, with respect to a victim  
3       who is deceased, the person who is listed first among  
4       the following:

5           (A) The surviving spouse.

6           (B) A surviving child of the decedent who  
7       has attained 18 years of age.

8           (C) A surviving parent of the decedent.

9           (D) A surviving adult relative.

10          (E) The public administrator appointed by  
11       a probate court, if one has been appointed.

12          (2) A victim’s representative does not include  
13       any person who has been convicted of murder under  
14       State or Federal law or any person identified in the  
15       incident report as a suspect.

16       SEC. 1413. VICTIM ADVOCATES AND VICTIMS’ RIGHTS.

17       (a) IN GENERAL.—Any victim making an allegation  
18       of sexual assault, domestic violence, family violence, or  
19       stalking may have a victim advocate present at any inter-  
20       view of the victim conducted by any military law enforce-  
21       ment official.

22       (b) SUPPORT DURING PROCEEDINGS.—In a military  
23       justice proceeding, a victim advocate, upon the request of  
24       the victim, shall be allowed to accompany the victim dur-  
25       ing the proceedings. The victim advocate shall be allowed



1 to confer orally and in writing with the victim in a reason-  
2 able manner.

3 SEC. 1414. RESTITUTION.

4 (a) IN GENERAL.—Chapter 80 of title 10, United  
5 States Code, is amended by inserting after section 1561a  
6 the following new section:

7 “§1561b. Restitution

8 “(a) RESTITUTION REQUIRED.—In addition to any  
9 other civil, disciplinary, or criminal penalty authorized by  
10 law, the convening authority in a court-martial shall order  
11 restitution for any offense specified in section 920, 892(4),  
12 or 1561a of this title.

13 “(b) SCOPE AND NATURE OF ORDER.—

14 “(1) DIRECTIONS.—An order of restitution  
15 under this section shall direct the person convicted  
16 to pay the victim the full amount of the victims’  
17 losses, as determined by the convening authority  
18 pursuant to paragraph (2).

19 “(2) ENFORCEMENT.—An order of restitution  
20 under this section shall be issued and enforced in ac-  
21 cordance with section 3664 of title 18 in the same  
22 manner as an order under section 3663A of that  
23 title.

24 “(c) MANDATORY ORDER.—

1           “(1) The issuance of a restitution order under  
2 this section is mandatory.

3           “(2) The convening authority may not decline  
4 to issue an order under this section because of—

5                 “(A) the economic circumstances of the  
6 person convicted; or

7                 “(B) the fact that a victim has received, or  
8 is entitled to receive, compensation for the vic-  
9 tim’s injuries from the proceeds of insurance,  
10 transitional compensation, veterans benefits, or  
11 any other source.

12           “(d) DEFINITIONS.—In this section:

13                 “(1) FULL AMOUNT OF THE VICTIM’S  
14 LOSSES.—The term ‘full amount of the victim’s  
15 losses’ includes any costs incurred by the victim  
16 for—

17                         “(A) medical services relating to physical,  
18 psychiatric, or psychological care;

19                         “(B) physical and occupational therapy or  
20 rehabilitation;

21                         “(C) necessary transportation, temporary  
22 housing, and child care expenses;

23                         “(D) lost income;

24                         “(E) attorney’s fees, plus any costs in-  
25 curred in obtaining a civil protective order; and

1           “(F) any other loss suffered by the victim  
2           as a proximate result of the offense or offenses.

3           “(2) VICTIM.—The term ‘victim’ means a per-  
4           son harmed as a result of a commission of a crime  
5           under this title, including, in the case of a victim  
6           who is under 18 years of age, incompetent, incapaci-  
7           tated, or deceased, the legal guardian of the victim  
8           or representative of the victim’s estate, another fam-  
9           ily member, or any other person appointed as suit-  
10          able by a court, but in no event shall the accused be  
11          named as such a representative or guardian.”.

12          (b) CLERICAL AMENDMENT.—The table of sections  
13          at the beginning of such chapter is amended by inserting  
14          after the item relating to section 1561a the following new  
15          item:

          “1561b. Restitution.”.

16          SEC. 1415. RECORDS OF MILITARY JUSTICE ACTIONS.

17          (a) IN GENERAL.—Subchapter XI of chapter 47 of  
18          title 10, United States Code (the Uniform Code of Military  
19          Justice), is amended by adding at the end the following  
20          new section (article):

21          “§940a. Art. 140a. Military justice information: trans-  
22                  mission to Director of Federal Bureau of  
23                  Investigation

24          “Whenever a member of the armed forces is dis-  
25          charged or dismissed from the armed forces or is released

1 from active duty, the Secretary concerned shall transmit  
2 to the Director of the Federal Bureau of Investigation a  
3 copy of records of any disciplinary action against the  
4 member involving sexual misconduct during the period of  
5 the member's service in the armed forces that is taken  
6 under this chapter, including any nonjudicial punishment  
7 imposed under section 815 of this title (article 15).”.

8 (b) CLERICAL AMENDMENT.—The table of sections  
9 at the beginning of such subchapter is amended by adding  
10 at the end the following new item:

“940. 140a. Military justice information: transmission to Director of Federal  
Bureau of Investigation.”.

**AMENDMENT TO H.R. 5122**  
**OFFERED BY MS. MCKINNEY OF GEORGIA**

Add at the appropriate place in the bill the following  
new section:

1 **SEC. \_\_\_\_ . REDEPLOYMENT OF UNITED STATES ARMED**  
2 **FORCES IN IRAQ.**

3 (a) FINDINGS.—Congress finds the following:

4 (1) Congress and the American people have not  
5 been shown clear, measurable progress toward estab-  
6 lishment of stable and improving security in Iraq or  
7 of a stable and improving economy in Iraq, both of  
8 which are essential to promote the emergence of a  
9 democratic government in Iraq.

10 (2) Whereas additional stabilization in Iraq by  
11 United States military forces cannot be achieved  
12 without the deployment of hundreds of thousands of  
13 additional United States troops, which in turn can-  
14 not be achieved without a military draft.

15 (3) More than \$277 billion has been appro-  
16 priated by the United States Congress to finance  
17 United States military action in Iraq and Afghani-  
18 stan.

1           (4) United States troops continue to be target  
2       of the insurgency and continue to be killed on a  
3       daily basis.

4           (5) According to recent polls, over 80 percent of  
5       the Iraqi people want United States forces out of  
6       Iraq, and these same polls also indicate that 45 per-  
7       cent of the Iraqi people feel that the attacks on  
8       United States troops are justified.

9           (6) Continuing United States military action in  
10      Iraq is not in the best interests of the United States,  
11      the people of Iraq, or the Persian Gulf Region,  
12      which were cited in Public Law 107-243 as jus-  
13      tification for undertaking such action.

14      (b) REDEPLOYMENT.—The deployment of United  
15      States forces in Iraq, by direction of Congress, is hereby  
16      terminated and the forces involved are to be redeployed  
17      at the earliest practicable date.

18      (c) REACTION FORCE.—A quick-reaction United  
19      States force and an over-the-horizon presence of United  
20      States Marines shall be deployed in the Persian Gulf Re-  
21      gion.

22      (d) RELIANCE ON DIPLOMACY.—The United States  
23      shall pursue security and stability in Iraq through diplo-  
24      macy.

109TH CONGRESS  
1ST SESSION

## H. CON. RES. 197

Declaring that it is the policy of the United States not to enter into any base agreement with the Government of Iraq that would lead to a permanent United States military presence in Iraq.

---

### IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Ms. LEE (for herself, Mr. BLUMENAUER, Mr. CONYERS, Mr. DEFazio, Mr. GRIJALVA, Mr. HINCHEY, Ms. KILPATRICK of Michigan, Mr. KUCINICH, Mr. McDERMOTT, Mr. GEORGE MILLER of California, Mr. OLVER, Mr. SANDERS, Mr. SERRANO, Mr. SHERMAN, Ms. SOLIS, Mr. STARK, Ms. WOOLSEY, Ms. MCKINNEY, Mr. RUSH, Mr. DELAHUNT, Mr. LEWIS of Georgia, Mr. CUMMINGS, Ms. WATERS, Mr. HONDA, Mr. JACKSON of Illinois, Mr. PAYNE, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. TOWNS, Mr. DAVIS of Illinois, Ms. JACKSON-LEE of Texas, Mr. WATT, Mr. AL GREEN of Texas, Mr. MORAN of Virginia, and Ms. SCHAKOWSKY) submitted the following concurrent resolution; which was referred to the Committee on International Relations

---

## CONCURRENT RESOLUTION

Declaring that it is the policy of the United States not to enter into any base agreement with the Government of Iraq that would lead to a permanent United States military presence in Iraq.

Whereas on April 13, 2004, President George W. Bush stated: "As a proud and independent people, Iraqis do not support an indefinite occupation and neither does America."; and

War Powers Resolution of 1973  
Public Law 93-148  
93rd Congress, H. J. Res. 542  
November 7, 1973

Joint Resolution

Concerning the war powers of Congress and the President.

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This joint resolution may be cited as the "War Powers Resolution".

PURPOSE AND POLICY

SEC. 2. (a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgement of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

CONSULTATION

SEC. 3. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situation where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

REPORTING



SEC. 4. (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced--

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation; the president shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth--

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

#### CONGRESSIONAL ACTION

SEC. 5. (a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific

authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

#### CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL

SEC. 6. (a) Any joint resolution or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

#### CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

SEC. 7. (a) Any concurrent resolution introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference.

Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

#### INTERPRETATION OF JOINT RESOLUTION

SEC. 8. (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred--

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this joint resolution and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of member of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution--

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provision of existing treaties; or (2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

#### SEPARABILITY CLAUSE

SEC. 9. If any provision of this joint resolution or the application thereof to any person or circumstance is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

#### EFFECTIVE DATE

SEC. 10. This joint resolution shall take effect on the date of its enactment.

CARL ALBERT

Speaker of the House of Representatives.

JAMES O. EASTLAND

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

November 7, 1973.

The House of Representatives having proceeded to reconsider the resolution (H. J. Res 542) entitled "Joint resolution concerning the war powers of Congress and the President", returned by the President of the United States with his objections, to the House of

Representatives, in which it originated, it was Resolved, That the said resolution pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

W. PAT JENNINGS  
Clerk.

I certify that this Joint Resolution originated in the House of Representatives.

W. PAT JENNINGS  
Clerk.

IN THE SENATE OF THE UNITED STATES

November 7, 1973

The Senate having proceeded to reconsider the joint resolution (H. J. Res. 542) entitled "Joint resolution concerning the war powers of Congress and the President", returned by the President of the United States with his objections to the House of Representatives, in which it originate, it was Resolved, That the said joint resolution pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO  
Secretary.